
**COMMISSION MEETING
THURSDAY, AUGUST 10, 2000
DRAFT MINUTES**

Chair McLaughlin called the meeting to order at 10:00 a.m., at the Inn at Gig Harbor. She introduced the following attendees:

MEMBERS PRESENT: **LIZ McLAUGHLIN, CHAIRPERSON;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER GEORGE ORR;
COMMISSIONER ALAN PARKER;
SENATOR MARGARTIA PRENTICE; and
SENATOR SHIRLEY WINSLEY**

OTHERS PRESENT: **BEN BISHOP, Executive Director;
SHERRI WINSLOW, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
MONTY HARMON, Program Manager;
ROBERT BERG, Assistant Director, Special Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
SHIRLEY CORBETT, Executive Assistant**

1. NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS:

Commissioner Orr made a motion seconded by **Commissioner Parker to** approve all the applications on pages 1-18 of the agenda packet. *Vote taken; the motion carried with four aye votes.*

Director Bishop pointed out there was a carry-over from the last meeting and **Chair McLaughlin** affirmed it was a request by the Spokane Valley Fire Department Benevolent Association for a Class C raffle license. It had been placed on hold because Commissioner Orr, as a member of the association recused himself from voting, which created a lack of a

Commissioner quorum.

Commissioner Orr offered an amendment that the license for the Spokane Valley Fire Fighters Benevolent Association Class C license be approved. **Commissioner Ludwig** seconded the amendment to the motion.

Commissioner Orr provided some background information on the Association and publicly thanked the group for their hard work. He excused himself from voting. **Commissioner Ludwig** noted this organization had some great ideas to raise money for some very important causes. *Vote taken; motion passed with three votes and one abstention.*

2. REVIEW OF FRIDAY'S AGENDA:

Amy Patjens, Manager, Communications & Legal Department noted there would be a brief discussion of Initiative 722, and a staff report on agency request legislation. Friday's agenda includes a final budget approval for the next biennium. Ms. Patjens asked to remove the staff report regarding pull-tab games.

Five sets of rules are up for discussion and possible filing. The first has been discussed for two months and relates to charitable organizations creating a for-profit corporation to operate a house-banked card room. The second rule deals with surprise pull-tab games, which are games that have been allowed by policy for many years. Staff raised questions, and a decision was made to write rules so that licensees, the public and staff would know what surprise pull-tabs are, their requirements, and how they should be regulated. Item #6 relates to reporting management changes. Item #7 deals with promotional contests of chance and Item #8 addresses credit union raffles; the rules simply implement the legislation passed last session.

3. GROUP IV – QUALIFICATION REVIEW:

Silver Buckle Rodeo Club, Vancouver:

Monty Harmon, reported that a fiscal review was conducted for fiscal year ending June 30, 1999.

The organization was formed in July 1978 and incorporated in November, 1983. Their mission is to encourage and support participation of youth and equestrian events and studies. The organization owns a 60-acre parcel in Vancouver, where they maintain two arenas, livestock barns, a garage, shop, and various livestock. The members encourage youth and young adults, ages 6 to 24, to develop equestrian interests by participating in their youth championships, sponsorship, and scholarship program. Other charitable and civic services were provided indirectly through the support of 4-H activities, the donation of their facilities to local civic groups, and cash contributions to charitable and non profit organizations in their community. Through the rodeo skills program, they offered year-around classes for calf roping, barrel racing, pole bending, rope tying, and steer wrestling.

The organization met its required combined net return percentage of 14 percent for a Class H Bingo by achieving a 19 percent net return. As of June 30, 2000, there were no pending administrative charges against the organization. The organization made progress towards accomplishing their stated purpose. Nothing came to the attention of staff that would indicate this organization is not qualified as a bona fide nonprofit organization for purposes of conducting authorized gambling activities. Staff recommends Silver Buckle Rodeo Club be approved as an

athletic organization and be authorized to conduct gambling activities in the state of Washington. **Dave Ackwin**, President, **Nick Peck**, Administrative Director, and **Cindy Arnold**, Operations Director, were present.

Chair McLaughlin asked how they were able to achieve a 19 percent return with Oregon's gaming operating so close. **Ms. Arnold** noted that although video poker has been in Oregon for quite awhile, there are Bingo players and there are video poker players. She affirmed they are experiencing some competition from the tribal casinos and the card rooms, and they have watched their attendance decline over the last couple of year's decline. So far they've been lucky.

Commissioner Ludwig asked if Oregon conducts Bingo. **Ms. Arnold** affirmed and explained that they share their facilities and may have as many as three or four different charities working out of the same hall. They are also allowed to be open seven days a week. Commissioner Ludwig noted that even with the competition, the organization not only met the 14 percent, but they added another 5 percent. **Ms. Arnold** clarified the fiscal year under review was over a year ago. The current fiscal year completed June 30th only achieved a 15 percent return, which is still one percent above the requirement, but they are losing ground. Attendance is dropping. **Ms. Arnold** said they have been able to anticipate problems and they try to be more creative. **Commissioner Ludwig** congratulated them on the fact that they are still well above the net return minimum.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to approve Silver Buckle Rodeo Club of Vancouver as an athletic organization, and that they be authorized to conduct gambling activities in the state of Washington.

Nick Peck commented that the organization is at the point of being recognized by IRS as a 501(c)(3) charity, which is a change from their current 501(c)(4) status. At the next Commission meeting, they hope to seek recognition not as an athletic organization but as a bona fide charitable organization. Mr. Peck asked if the Commission would be prepared to acknowledge them at this meeting as a charitable corporation pending the arrival of their 501(c)(3)-determination letter. **Commissioner Ludwig** asked for advice from **Director Bishop** who said they would have to be evaluated. While 501(c)(3) is a Federal determination, there are definitions of what fits "charitable" under the Gambling Commission Act. Director Bishop noted athletic activities for people 18 years of age or older would not meet the charitable definition under the Gambling Commission Act. Athletic activities for persons 17 and younger qualify as charitable. Young adults are past the juvenile portion of their life and while this may be a laudable activity, it is not necessarily a charitable activity. **Chair McLaughlin** asked if this was something the Commission could change. Director Bishop responded it would require a rule change. **Commissioner Ludwig** responded that it might not solve the problem because Mr. Peck's organization deals with people up to age 24. Mr. Peck noted they have changed the direction and design of their programs since their last review. He believed the organization is entirely compliant with every state and federal statute concerning charitable status. He said that if it is not feasible for the Commission to grant it this time, he hoped to have the formal application for consideration as a bona fide charitable corporation for the next meeting. Commissioner Ludwig asked if what the Commission learns satisfies the definition, would the director be in a position to make the change. **Director Bishop** responded that staff assigns organizations into a category

based on the rule. If they wish to have staff consider a change in their category, they need to remit their new bylaws, and staff will review them and make a determination. Vote taken; motion carried with four votes.

4. **GROUP V - QUALIFICATION REVIEW:**

Music Works Northwest, Renton:

Monty Harmon, Program Manager, reported that Commission staff conducted the qualification review for the fiscal year ending September 30, 1999. The organization was formed in 1965 and their mission is to bring the joy of music to people of all ages and backgrounds. They do that by providing high quality music education and performance opportunities. The organization has expanded the scope of its music program to include adults and has offered the programs to larger and broader audiences. Programs and outreach activities at Music Works Northwest served 3,487 young people in the King County area during fiscal year ended September 30, 1999. In addition, the organization produced its seventh compact disc. They finalized the lease of a new facility and moved in December of 1998. The new facility is being renovated to provide an office and administrative area as well as a large performance base that will be used for rehearsal and recordings, two medium rehearsal halls, two class rooms, 15 teaching studios, and a recording control room.

For the fiscal year ended September 30, 1999, the organization met its required net return percentage of 16 percent for their Class M Bingo license by achieving a 24 percent net return. There were no pending administrative charges against the organization. Based on an analysis of the financial statements and the narratives and supplemental information provided with their application, the organization has made progress towards their stated purpose. Nothing indicated that Music Works Northwest is not qualified as a bona fide nonprofit organization for the purpose of conducting authorized gambling activities. Staff recommends Music Works Northwest be approved as an educational organization authorized to conduct gambling activities in the state of Washington.

Greg Murray, Executive Director, introduced himself. **Commissioner Ludwig** noted the organization has done very well and exceeded the net return by more than 50 percent. He asked how they managed to succeed so well. **Mr. Murray** responded that this review pertained to some time ago, and that things are much different now. Over the course of the current fiscal year, they are going to see their net return reduced by almost \$200,000, which is having a significant impact on the organization. He believed the decline is primarily attributable to the major tribal casinos and card rooms in the area. Mr. Murray affirmed he is looking at the future of charitable Bingo for their organization. He said they took a risk and built a new facility almost four years ago and that was a very critical step in helping them maintain their success and to grow. Unfortunately, that's not been able to sustain them over the last year. They are still doing well, but they are very concerned about the trends that they see.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to approve Music Works Northwest as an educational organization and that they be authorized to conduct gambling activities in the state of Washington. Vote taken; the motion carried with four aye votes.

5. **LICENSE APPROVAL – TRIBAL FINANCIER/MANAGEMENT COMPANY:**

Spirit Mountain Management and Consulting, Inc., Willamina, Oregon:

Robert Berg, Assistant Director, reported this organization was formed in 1999. They have applied for a Class 3 Indian Gaming Management Company Financier License in the state of Washington. They plan to provide funds and expertise to the Kalispel Tribe regarding the construction and operation of their tribal casino at Airway Heights adjacent to the city of Spokane. They are currently headquartered in the Spirit Mountain Casino in Willamina, Oregon, where they maintain all corporate and financial records.

The confederated tribes of the Grande Ronde are the sole owners of Spirit Mountain Development Corporation, which in turn is the sole owner of Spirit Mountain Management and Consulting as well as Spirit Mountain Gaming. Spirit Mountain Management and Consulting Inc. has not been licensed in any other jurisdiction.

Staff's investigation and review included an analysis of corporate financial statements for undisclosed entities having significant influence, unreported officers or directors, and undisclosed ownership's for all corporate entities. Nothing out of the ordinary was uncovered during this review and investigation. Company check registers, payroll registers, articles of incorporation, meeting minutes, lease agreements, patents, and loan contracts were also reviewed. There was no indication of any illegal activity, hidden ownership or significant influence by outside parties. The management contract between Spirit Mountain and the Kalispel Tribe was reviewed and did not show anything out of the ordinary. Presently, Spirit Mountain Management Consulting does not finance or manage any gambling facility in the state of Washington. Spirit Mountain Management Consulting Company was formed with capital from the Confederated Tribes of the Grande Ronde. The primary source of funds for the Confederated Tribes of the Grande Ronde is the Spirit Mountain Casino, which they own and operate. The source of funds was verified and no exceptions were noted. Based on staff's review of the application, the financial documents and their investigation, no items were noted that would preclude Spirit Mountain Management Consulting, Inc. from qualifying for a gambling license in the state of Washington. Based on the investigation, staff recommends licensure of Spirit Mountain Management and Consulting, Inc., as a Class III Indian Gaming Management Company/Financier in the state of Washington.

Commissioner Ludwig pointed out that the state of Oregon collects taxes from the tribal casinos, even though it's operated on reservation land, which is different from what the state of Washington does. He asked if a corporation wholly-owned by a sovereign tribe is incorporated, are they then subject (off the reservation) to taxes like Washington State's Business and Occupation tax. **Mr. Berg** responded that this is similar to the licensing that the Commission authorized in regard to Standing Stone, wherein the Commission does not license another governmental entity. This corporation is formed for the sole purpose of doing business in the state of Washington.

Rod Breen, Corporate Secretary for Spirit Mountain Management and Consulting, Inc. and the tribal attorney for the Confederated Tribes of Grande Ronde introduced himself to the Commission. He then introduced Jeffrey Lande, Terry Contraris, Deneane Alterton, staff attorney for the tribe and corporate counsel, and Dave Bobbeck, Kalispel tribal attorney. In

response to the question regarding the tax issue in Oregon, he noted that Oregon does not tax the tribes. **Commissioner Ludwig** recalled that the governor made some special arrangement with Spirit Mountain that there would be a six-percent tax in exchange for slot machines. Mr. Breen said he would not characterize it as a tax because a tax would be illegal. What the Tribe proposed was an initiative consistent with the Tribe's policy providing benefits to the community. They established a six- percent community fund. It is a separate corporation chartered under tribal law that takes six percent of the revenues that come from Spirit Mountain and provides them for benefits to charitable and local governments within the Grande Ronde area, and should not be confused with a tax. Commissioner Ludwig asked if a corporation solely owned by a sovereign tribe that conducts business off the reservation is subject to taxes. Mr. Breen responded that one must look at the individual jurisdiction and the individual tax. That is something that is still in question in Washington.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to approve licensure of Spirit Mountain Management and Consulting, Inc., as a Class III Indian Gaming Management Company/Financier.

Commissioner Parker noted that he served on the staff of the Senate Committee in Washington. D.C. when the Indian Gaming Law was first authorized back in 1988. At that time, Congress clearly intended that these tribes help each other just as they have here. One of the reasons Congress enacted that law, under a Supreme Court ruling, was to make it possible for Indian tribes to use the profits wherever it made sense in their own judgment to assist each other. Commissioner Parker affirmed this is a situation where the public policy seems to be being accomplished with this business agreement between the two, and it's a good example of why Indian tribes have this position of operating casinos over and above the legal right that's established. There is a public policy that's being accomplished. **Senator Prentice** recalled attending some of the meetings and affirmed the expectation that the tribes would help each other. Vote taken: the motion passed with four aye votes.

6. **LICENSE APPROVAL - MANUFACTURER:**

BK Entertainment Inc., Bloomington, Minnesota

Robert Berg, Assistant Director provided the background business information and noted BK Entertainment has been licensed as a manufacturer and/or distributor in Washington State since 1988. They currently do business as Bingo King and they are a leading manufacturer of a full line of Bingo and Bingo-related products. They have been in the Bingo industry in excess of 50 years. BK Entertainment is currently headquartered in Minneapolis, Minnesota, where it maintains corporate and financial records. They have been authorized to issue 15 million shares of stock, 10 million of which are common stock, and 5 million are preferred. Currently, there are 88,000 shares outstanding and institutional investors with Contrarian Capital Management hold 85,000 of those shares representing over 96 percent of the total outstanding share amount. Their registered agent in the state of Washington is United States Corporation Company.

Staff investigations revealed that 27 states and seven tribal gaming agencies in the United States currently license BK Entertainment. They are also licensed by jurisdictions in Canada and Mexico. State jurisdictions in Minnesota, Colorado and Texas were contacted to verify that the applicant's licenses are in good standing and that they are not under any investigation in any of

the jurisdictions surveyed or any others in which they are licensed. No adverse material was noted. Criminal and personal background checks were completed on all substantial interest holders, their spouses where applicable, and no disqualifying information was found. Investigative procedures performed by the financial investigation unit included an analysis of their corporate financial statements, the SEC documents, limited liability company documents, bankruptcy disclosure statements, Secretary of State disclosure in the state of Washington as well as various company correspondence and the first amended plan of reorganization, along with interviews with other licensing jurisdictions.

Staff toured the manufacturing facilities located in Washington State and interviewed personnel at various levels of the organization to verify representations made in their application were in fact accurate. No adverse material was noted during the review and no hidden ownerships were revealed or significant influence by outside parties. BK Entertainment's major source of capital is derived from Contrarian Capital Management LLC. Contrarian provides discretionary investment advisory services to its clients which include institution investors such as pension or profit sharing plans, pooled investments such as private investments, limited partnerships and offshore corporations to which Contrarian acts as an investment advisor. Contrarian's investment advisory services focus on selecting investments in broad based distressed security portfolios including corporate real estate, non U. S. securities and high yield securities. This includes investing in financially distressed companies or companies going through bankruptcy proceedings. Contrarian Capital Management LLC is registered with the Securities and Exchange Commission and manages assets of approximately \$420 million on behalf of its investors and clients.

During the review of the application financial documents, and in conducting this investigation, no items were noted that would preclude BK Entertainment from qualifying for a gambling manufacturing license in the state of Washington. Based on the investigation, staff recommends licensure of BK Entertainment, Inc. as a Class F manufacturer.

Chair McLaughlin asked if a corporation who gets their major source of capital from an institutional investor is the same as if an individual receives a bank loan. **Mr. Berg** said it was not exactly the same. Institutional investors take money from, for example, pension plans which is then invested in various ways. This is an investment that the company trust funds chose to invest their money. That is why staff looked at the company itself through the Securities and Exchange Commission.

Mr. Paul Curtain, Senior Vice President of Compliance for BK Entertainment introduced himself and was available for questions. **Commissioner Ludwig** asked if BK has a manufacturing facility in the state. Mr. Curtain responded that they have one of several located here. It was formerly the company called Trade Products, who has done business in this state and was licensed by the state of Washington for some 15 years. BK acquired Trade Products in 1998, and it is now a subsidiary branch operation in Lynnwood that is their main facility in the United States for producing pull-tabs.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to approve licensure of BK Entertainment, Inc., as a Class F manufacturer. Vote taken; the motion carried with four

aye votes.

7. HOUSE BANKED CARD ROOM APPROVALS:

Dsk, Inc., D/B/A Bridge Street Connection/Sports Bar, Clarkston:

Derry Fries, Assistant Director, Licensing, reported that Dsk, Inc., is doing business as Lancer Lanes Casino Bridge Street Connection and Sports Bar. Dsk, Inc. has applied for a license to operate up to six tables of house-banked card games. Dsk, Inc. was formed as a privately held corporation in September of 1998. Corporate headquarters is located in Clarkston. There are 1,000 shares of outstanding stock, 333-1/3 shares owned by David C. Prowl, the corporate president, 333-1/3 shares owned by David S. Prowl, the corporate vice president, and 333-1/3 shares owned by Kathy A. Prowl, secretary-treasurer. The corporation is presently licensed by the WSGC to operate Class C punch board and pull-tabs, and they presently hold a Class E-3 public card room license.

The financial investigations unit conducted a criminal and personal history investigation on all substantial interest holders and initiated and completed a financial investigation of both the corporate and personal stockholder finances. An onsite pre-operational review and evaluation in accordance with the rules of the Commission was conducted in July of 2000. The applicant was found to be in compliance. The pre-license report indicates there is a lack of card room employees. As of the 4th of August they have all their employees. Based on the licensing investigation and the pre-operational review and evaluation, staff recommends Dsk, Inc. be licensed as a house-banked public card room and be authorized to operate up to six tables. Dave & Kathy Prowl were available for questions.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to approve Dsk, Inc. as a house-banked public card room authorized to operate up to six tables. *Vote taken; motion passed with four aye votes.*

8. HOUSE-BANKED CARD ROOM PHASE II REVIEWS:

Habana Café & Casino, Tacoma

Cally Cass-Healy, Assistant Director, reported this is a commercial restaurant/lounge. This organization is owned by Lounge Lizards LLC and the ownership consists of Emiel Kandi and James Hayes, each owning a 50 percent ownership interest. No member of this organization has an interest in any other house-banked card room at this time. Habana's began conducting house-banked games on October 15, 1999, operating nine house-banked games, including four Blackjack, two Spanish 21, one Let It Ride, one Fortune Pai Gow Poker, and one Lucky Ladies Blackjack. Agents conducted a comprehensive review including a review and observation of key operating departments and a review of gaming and organizational records. The city of Tacoma was contacted to verify the licensee was current on all gambling taxes and the Tacoma Police Department was contacted to verify there had been no adverse impact of the card room on the community. All violations were corrected and based upon this review, staff recommends approval to operate at Phase II wagering limits for Habana's Café & Casino.

Emiel Kandi, LLC Manager, commented that it had been an interesting year. They opened October 15th and they've lost money every month since opening. Mr. Kandi believed that would

turn around after the Phase II review is completed. They have seen steady increases in their numbers. He reported they brought in some independent consulting to help with their financials and they have streamlined their payroll. They look forward to many more years in business in Washington State. Mr. Kandi recommended that Commission staff be consistent in their requirements on how establishments are required to handle their cage paperwork, so that all establishments are expected to operate in the same manner.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to approve Phase II wagering limits for Habana Café & Casino located in Tacoma. *Vote taken; the motion carried with four aye votes.*

Royal Club, Seattle:

Cally Cass Healy, Assistant Director, reported this organization is a commercial restaurant, lounge/night club and house-banked card room located in Seattle. The business is owned by a sole proprietor, James Routos who also holds an interest in Players Casino Sports Club Grill, a house-banked card room operating seven tables in Federal Way. The licensee is currently operating 15 house-banked tables.

During the review and observation of key operating departments, the review of gaming and organization, the King County Tax Assessor's Office was contacted and confirmed the licensee was current with all taxes. The sheriff's office had not seen a significant impact due to the Royal Club house-banked card room operation. Although several operational violations were noted, all were corrected. Based on the review, staff recommends approval to operate at Phase II wagering limits. **James Routos**, proprietor, was present for questions.

Chair McLaughlin asked Mr. Routos how he handled the dealers who made so many mistakes while a special agent was watching. **Mr. Routos** said the majority of the mistakes were dealers not clearing their hands, and they had a staff meeting with the general manager and the dealers. The dealers found to be violating those rules were reprimanded, and the operation turned around in a relatively short period of time. Chair McLaughlin asked if they weren't trained before going out on the floor. Mr. Routos said they were trained, and he wasn't going to make excuses. **Senator Prentice** noted the Royal Club is close to her house and that Mr. Routos has the distinction of being a club where she is likely to pay a visit. She affirmed that she has been there when staff meetings are held, and that Mr. Routos has worked very hard to make this a success.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to approve the Royal Club for operating at Phase II gambling limits. *Vote taken; motion passed with four aye votes.*

9. OTHER BUSINESS/GENERAL DISCUSSION/COMMENTS FROM THE PUBLIC:

Ed Fleisher addressed Initiative 722, which, if passed, would impact the agency. I-722 "the son of I-695" has a provision in Section 1 that says any fee increases adopted between July 2, 1999 and December 31, 1999, are null and void and the revenues raised under them shall be refunded. He reminded the Commissioners that the Commission had increased fees in November, 1999, for some minor increases and adopted the fees for the house-banked card rooms. Updates will be provided over the next few months.

Chair McLaughlin reported that **Laura Rau**, the Commission's Nonprofit Coordinator Supervisor will be leaving the agency for Denver, Colorado where she will be in the fraud squad for US Bank. She said this is US Bank's good luck and the agency's misfortune. Secondly, **Sherri Winslow**, while not leaving, will be no longer be the Deputy Director of Operations. This is her last meeting as Deputy Director. Ms. Winslow will be greatly missed in that position. She was hired in 1982 as a gambling investigative auditor. In 1988, she was promoted to Special Agent V. She was promoted to regional manager for the Northwest Region in 1992 and then accepted a position as Assistant Director for Field Operations in 1994. Four years later she became Deputy Director of Operations. She will continue to work as Special Assistant to the Director. Chair McLaughlin conveyed the Commission's thanks for all the years of service and wished Ms. Winslow well.

Delores Chiechi, RGA, publicly thanked Ms. Winslow for her work and affirmed she will be missed. She said Ms. Winslow was instrumental in making sure the card room enhancement program went smoothly. Her patience and stick-to-itiveness to work with all of the licensees and their different personalities was key in making things run smoothly. On behalf of their members, she said the RGA would miss Ms. Winslow. **George Teeney** reminded the audience that Ms. Winslow grew up with their program. He said she worked extremely well with them even though at times they were on opposite sides of the issue. He offered his heartfelt thanks.

Ms. Winslow thanked everyone for the special recognition. She said it's been a good time. **Director Bishop** said he is looking forward to their new relationship because Ms. Winslow is a very talented person and there is a lot of work that can be accomplished.

10. **STAFF REPORT:**

Agency Request 2001 Legislation:

Amy Patjens, Manager, noted that last month staff advised they would be asking for formal approval to submit the agency request legislation bill this month. This bill is similar to the bill the Commission supported last year dealing with the cheating statute. Under the current statute, cheating is a gross misdemeanor regardless of the number of people that are involved. The proposed legislation will separate cheating into three degrees. The new bill will also create a corresponding three-level penalty structure. The degree of cheating would typically be based on the number of individuals that were involved in any type of a cheating scheme to defraud an operator. The exception would be that if a person is licensed by the Commission, and one engages in cheating -- that would be cheating in the first degree regardless of whether it was some type of a conspiracy or not. The change from last year is the language to rank the felonies of cheating in the first and second degree. Ranking the felonies is important for determining sentencing under the sentencing guidelines. Last year the bill passed the House, but it did not make it out of the Senate. It is believed there is support for the bill in the Senate and staff hopes it will pass this year. The change gives prosecutors greater flexibility and also makes sure that individuals involved in a cheating scheme are charged with whatever offense is commensurate with their actions, rather than everyone being charged with a gross misdemeanor. It gives prosecutors more flexibility with plea-bargaining. Staff originally brought this legislation forward last year because a prosecutor in Pierce County specifically suggested that we look into doing this.

Ms. Patjens noted that house-banked card rooms and tribal gaming have changed how gambling has occurred in this state. Now there is this third party – the house - that people may want to cheat and there may be a difference when one is cheating this unknown, no-faced third party. Over the last eight years, the cheating scheme is usually a dealer, and then the patrons conspiring together to cheat the house. If one is acting as an individual and engaging in cheating, that would be covered under this legislation. So far there have been about six or seven cases over the last eight years, and there is a feeling there should be a law that is more commensurate with the activity. Last year, the Washington Association of Sheriffs and Police Chiefs, the Washington Association of Prosecuting Attorneys, and the Recreational Gaming Association supported this bill. Ms. Patjens affirmed this bill will be formally submitted to the Association of Sheriffs and Police Chiefs and the Association of Prosecuting Attorneys later this month and we anticipate they will support the bill again. Staff discussed the bill with the RGA and they have stated they will support it. The Charitable and Civic Gaming Association has a meeting scheduled to formally decide on their position, but staff anticipates they will also support the bill.

Commissioner Ludwig asked if stealing wasn't already considered a crime, and noted that whether it is a felony or misdemeanor depends on the value. If we change that whole theory by saying it depends now on how many people are involved, one individual could cheat and clean out a card room for a couple thousand dollars and only be charged with a gross misdemeanor. **Ms. Patjens** affirmed. Commissioner Ludwig said that if three people took a card room for \$50, it would be a Class C felony. Ms. Patjens affirmed. Commissioner Ludwig noted that if they added two more people and only stole \$25, it would be a Class B felony. Commissioner Ludwig said he was opposed to this bill for those reasons. Stealing \$1,000 under that definition, would be a gross misdemeanor; stealing \$50 with two other people is felony, and that doesn't make sense. **Ms. Patjens** affirmed that staff talked about the theft statute and whether they should add more language to it instead. **Commissioner Ludwig** emphasized that prosecutors have a great deal of discretion. There's a new breed that wants more laws and more gross misdemeanors upgraded to felonies. The penalty for a felony isn't very serious and a Class C isn't punished very much. **Mr. Fleisher**, Deputy Director, affirmed that is one of the reasons behind this bill. Pierce County had one of the larger situations where dealers and players were conspiring at the table and when the prosecutor looked at the cheating statute and saw gross misdemeanor, and noted that a lot of money was involved, he asked staff to explore the idea of using the theft statutes. The problem with the theft statute is the problem of proof -- it's not like stealing a hundred or a thousand dollars out of the cash register. When you cheat at Blackjack, you change the odds and a good defense attorney will make you walk through every single hand play and will try to figure out how you changed the odds. The question is, how do you determine the value of what was actually stolen under the theft statutes.

Commissioner Ludwig said he wouldn't feel so strongly except for the Sentencing Reform Act passed by the Legislature in 1981. We don't solve all the problems by punishing someone for a Class B felony who's done less damage than someone who commits a gross misdemeanor. Commissioner Ludwig believed that cheating in a public card room should be felony. Theft from a public card room in any manner should be a felony to maintain credibility and integrity in the industry. He said he is not urging his colleagues to withdraw any support they may have, but, it is not logical for someone that cheats and gets \$1,000 isn't punished as much

as two or three guys who cheat and only get \$50. **Commissioner Parker** said he was persuaded by his co-commissioner's argument, and his instinct would be the same – there is a fundamental fairness question, and people expect that government will exercise its power to prosecute for crimes when it's related to the amount of money that is being stolen. To go in the direction of basing the penalty on how many people are involved isn't something we should do unless there is evidence that it is needed. **Chair McLaughlin** asked if it would be premature to make a decision today, or if there might be something else brought forward to make it fairer. **Director Bishop** responded that there were some constraints under the Governor's guidelines. All legislation from agencies must go through the Governor's Office and that deadline is September 15th. We may continue to discuss the issue and staff will have to ask for a waiver or an extension from the Governor's Office to submit the legislation after the deadline.

Director Bishop said the industry could actually bring this legislation forward, and noted that in fact we were first approached by the industry, who thought that cheating should be a serious crime – something more than a misdemeanor – and to have a Class A, B or C on it. **Mr. Fleisher** said the statute brought forward had three different levels of cheating - the first, second and third degree. He clarified whether Commissioner Ludwig was suggesting taking the current cheating statute and raising it from a gross misdemeanor to a felony of some level. **Mr. Ackerman**, Assistant Attorney General, affirmed it would be helpful if the Commission gave an indication of where they want the agency to go. If they feel the penalties for this are inadequate, then the only control the Commission has is the amount of penalty that is going to be set for the felony, and we should determine how to rank the penalty. These are ranked as a four and a two on the matrix and the Sentencing Guidelines Commission actually sets the standard ranges for each crime. If the goal is to increase the punishment then we actually have to do that through the ranking process. If staff is going to rework this, we need to know what to achieve. If the Commission wants to get these cases prosecuted, prosecutors will find it very helpful to have a range of crimes so they can negotiate pleas rather than having to take them all to trial. As it stands right now, there is no equal protection problem with having the cheating statute standing side-by-side with the theft statute. It puts a lot of discretion in the hands of the prosecutor to charge the crime they want, and to some degree, to pick the penalty they want. There's a limited ability for staff to control that without some fairly specific direction as to what they would like to see achieved.

Commissioner Ludwig affirmed it gives the prosecutors a lot more discretion, and the judge a lot less. **Senator Prentice** felt it would be unlikely the sentencing law would be changed based on this issue. She believed this could be well worked by the Governor's deadline. Senator Prentice agreed that cheating at gambling is a pretty sophisticated activity and she questioned at what point dealers get the training to be able to recognize when cheating is occurring. **Director Bishop** said the agency doesn't train dealers to detect cheaters. Their training has to do with their responsibilities with the Commission rather than whether they are adequate dealers. Certainly, a part of that is the fact that they're responsible for not cheating. However, operators in the industry train in how to detect cheaters. Cheating is a sophisticated process. **Chair McLaughlin** noted that she has determined there aren't enough votes to pass this issue today and asked staff to rework the language. **Mr. Fleisher** said they would talk with the Commissioners and look at what some of the other states do.

11. **PETITION TO UPGRADE BINGO LICENSE:**

Northshore Youth Soccer, Snohomish:

Melinda Froud, Staff Attorney, and Edwin Woodward, Attorney for the Petitioner presented their cases.

Commissioner Ludwig made a motion to grant an upgrade to Northshore Youth Soccer to a Class K for the remainder of the year; then amended the motion to make it for the remainder of this fiscal year. **Commissioner Parker** seconded the motion. *Vote Taken; the amended motion passed with four aye votes.*

12. **EXECUTIVE SESSION TO DISCUSS PENDING INVESTIGATIONS AND LITIGATION:**

Chair McLaughlin called for an Executive Session at 3:30 p.m. **Chair McLaughlin** noted no further business would be conducted following the Executive Session, with the exception of adjourning the meeting.

13. **ADJOURNMENT:**

Chair McLaughlin recalled the open public meeting at 4:40 p.m. and declared the meeting adjourned until 10:00 a.m. August 11, 2000.

**COMMISSION MEETING
FRIDAY, AUGUST 11, 2000
DRAFT MINUTES**

Chair McLaughlin called the meeting to order at 10:00 a.m., at the Inn at Gig Harbor. She acknowledged the presence of the Mayor of Gig Harbor. The following attendees were present:

MEMBERS PRESENT: **CHAIR ELIZABETH McLAUGHLIN, Chair;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER GEORGE ORR;
COMMISSIONER ALAN PARKER
SENATOR MARGARITA PRENTICE; and
SENATOR SHIRLEY WINSLEY**

OTHERS PRESENT: **BEN BISHOP, Executive Director;
SHERRI WINSLOW, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
ROBERT BERG, Assistant Director, Special Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General; and
SHIRLEY CORBETT, Executive Assistant**

1. **MINUTES – July 13 and 14, 2000:**
 Commissioner Orr made a motion seconded by **Chair McLaughlin** to adopt the minutes. *Vote taken; motion carried with four aye votes.*
2. **Consideration for Approval of the 2001-2003 Budget Presentation:**
 Director Bishop reported that since the budget presentation last month, minor adjustments were made. The current biennial budget was initially approved in August of 1998 at \$22.7 million and 163.6 FTEs. The Governor's Office and Legislation made an adjustment which added .3 FTEs and \$700,000 to the budget. Most of the \$700,000 had to do with salary increases approved by the Legislature. There were also some minor adjustments for revolving fund billings such as billings for the Attorney General and State Auditor services.

Director Bishop noted that last May the Commission approved a supplemental budget that was predominantly for the house-banked card room program. It included an addition of 25.8 FTEs and almost \$5 million – a little more than a million dollars is earmarked for the agency to move

their headquarters office building. The Governor's Office reduced the supplemental budget by \$138,000, which included one FTE and associated equipment and salary. This resulted in an adjusted biennial budget for the current biennium of 28.3 million and 189 FTEs. This resulted in an increase of 4 FTEs for the card room program and an overall decrease of \$300,000. The reason for the negative dollars is the one time cost of equipment and the move of headquarters.

As a part of the process, the agency is required to provide a carry-forward adjustment. **Director Bishop** said the next adjustment is for maintenance which is basically a phase-in adjustment. The budget will show a 6.1 increase in FTEs, which is for the house-banked card room. It is based on projections of 72 card rooms in July 1, 2001; 87 card rooms in 2002; and 100 in 2003. These may be very aggressive estimates, but staff would rather error on the side of prudence. FTEs will only be added as the card room program grows.

Director Bishop noted that \$106,000 of the budget relates to an adjustment for salaries and benefits, predominantly in the exempt staff and the WMS positions. \$232,000 is for equipment replacement -- based on replacing cars every six years and computers every three or four years. Increased lease costs of \$80,000 has been identified in response to adding a new field office in the Renton area, and moving the Yakima office. The final adjustment is \$77,000 which relates to travel for tribal gaming agents and increased costs of law enforcement training. The total maintenance level adjustment is \$1,408 million.

The agency will begin the next biennium with 198.8 FTEs and a budget of \$29.6 million. The only additions are two requests related to technology. The first includes a request for one FTE and a total cost of \$234,000. The FTE salary and benefit package is \$127,000 and the additional costs are associated with the digital government program. **Director Bishop** explained that the digital government is an initiative Governor Locke is requesting. The goal is to move state government into the digital business arena. Washington State is one of the foremost digital government states, which resulted in such things as people being able to pay their taxes over the Internet by making a bank transfer. They can also submit their employment security taxes or sales taxes over the Internet. Our desire is to build on that program and to be able to accept applications over the Internet as well as payments for people renewing their licenses. This will be convenient for our customers and will reduce costs for the agency.

Senator Winsley called attention to the training and special agents screening and asked if they were doing something different that has not been done in the past. **Director Bishop** said the screening is a standard polygraph examination that is used by almost every law enforcement agency. This is a new program that was started approximately one year ago. **Mr. Berg** interjected that staff evaluated the need for psychological evaluations and polygraph tests of new special agents candidates. Because of the turnover and the fact that it's a relatively new activity, the budget amount needed to be increased.

Senator Winsley questioned the budgeted amount because it's such a large amount and seemed to be very expensive. **Mr. Berg** responded that agents are sent to the Washington State Criminal Justice Training Commission's basic law enforcement academy. That Commission increased the training hours for law enforcement officers from 440 to 720, and there are increased costs associated with that change that must be paid by the agency.

Director Bishop also noted that \$34,000 of the \$77,000 is for the additional travel for tribal

gaming (one new casino in eastern Washington, and \$33,000 is related the increased cost for the academy -- the polygraph test is \$10,000 (\$5,000 per year).

Director Bishop reported the other budget request for the new biennium is \$305,000 for "Efficiency Through Technology." The agency is testing palm computers that have a bar code reader built into them so agents can do their inspections more efficiently. Currently, agents are equipped with portable computers and separate bar code readers. The technology has advanced to a point where one can have a computer with a bar code reader built into it, which should be less expensive. The agency would also like to add a digital identification system and is working with the Department of Licensing in order to have computerized identification photos. The agency will be able to issue the identification cards to the house-banked employees which means the agency would have that picture in our database. In total, the agency is asking for approval of one new FTE and \$540,000 which is a biennium request of almost 200 FTEs and \$30.1 million.

Director Bishop noted that almost all of the money is spent in three areas: salaries and benefits which combine for 71 percent, and goods and services at 20 percent. He noted that there was an increase in personal service contracts for both the current biennium and the next -- which includes \$150,000 that is provided to Council on Problem Gambling.

Director Bishop addressed where the revenue comes from. He prefaced his remarks by saying there are no 601 fee increases built into this budget, but that staff will reserve the right to request increases if necessary. Right now, staff believes the current fee structures will work. Of course, we must consider Initiative 722, which may take a big bite out of the funds. Staff anticipates a \$1.8 million revenue increase through license fees, which is an 8.1 percent change. Most of this will be realized from the new house-banked card game program. I. D. stamps will show a .2 percent increase. There will not be a lot of growth in other areas, in fact there may be declines in some areas. The 70 percent increase in inspection reviews gives a false indication. In the past, staff included the fees that are received for investigations and reviews, which gives a false picture of revenue. Every time a new manufacturer is added, the actual license fee would be \$3,000 to \$5,000, but the investigation fee would be \$15,000 or \$20,000. This made it appear that a lot of money was coming in for manufacturers when in fact they were all one-time revenues. Staff decided to separate the fees. The increase in tribal gaming revenues is another false indication. The current biennium includes collection of past due fees of almost \$1 million, and another quarter of a million dollars that was received for one-time costs for funding the electronic gaming lab. **Director Bishop** provided a graphic presentation of how the agency receives its fees and pointed out that the agency received 77 percent from license fees, 14 percent for tribal gaming, 2 percent is generated through identification stamps and 5 percent from review investigations.

Commissioner Orr asked for reassurance that personnel and associated cost estimates were projected on a certain growth level, and verified that if the growth doesn't happen, the agency would not be overstaffed or overexposed. **Director Bishop** affirmed that staff has been prudent in estimating where their revenues are coming from and associated expenses.

Director Bishop addressed the fund balance. Staff anticipates starting the next biennium at \$6.8 million which is an approximate \$600,000 decrease from last month. After reviewing

projections, staff anticipates receiving \$13.6 million in revenues, and expending almost \$15 million in expenses, resulting in a fund balance at the end of the first year of the next biennium of \$5.4 million. This is equal to approximately 4.4 months of operating costs. Several years ago, the Commission decided the agency should always have a three month reserve. The primary reason relates to the way revenues are received. The agency would start the second year of the biennium with \$5.4 million and staff expects \$14 million in revenues and \$15.1 million in expenses, resulting in \$4.3 million at the end of the biennium, which is a three and a half month operating balance.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to adopt the budget as proposed and described by Director Bishop. *Vote taken; motion passed with four aye votes.*

3. STAFF REPORT:

Pull-Tab Games: Surprise, Step-Up and Progressive Games (Report Deleted from Agenda)

Rules Up For Discussion and Possible Filing

4. Charitable/non-profits Owning a Commercial Gambling Establishment.

WAC 230-04-026 - *Ownership of a commercial gambling establishment by charitable and nonprofit organizations.*

Amy Patjens reported there is a nonprofit organization that has created a for-profit corporation and has submitted an application to open a house-banked card room. These rules are up for discussion and possible filing. This issue was discussed in June, but staff asked that it not be filed then because they wanted to discuss some of the underlying statutes and policy questions first. This rule was again up for discussion last month and the Commission chose to delay it until this month. In June, Mr. Jerry Ackerman, Assistant Attorney General, walked the Commission through some of the applicable statutes and reported there were three options. One would be to prohibit this, the other, to allow it without restrictions, or the third option would be to allow a charity to do this with conditions. The agenda proposals cover these three options. The original proposal would be to allow a nonprofit to own a card room, but not have more than a 49 percent interest in it. Alternative #1 would not allow it all, but it would make this decision clear by rule, and Alternative #2 would allow this without any restrictions on the percentage of ownership.

Ms. Patjens noted that several people testified on this rule last month. Most of them favored Alternative #2, which would allow the nonprofit organization to have a partial or complete interest in the commercial business. A letter was received from the RGA which notes that they are neutral on this although the Commission may hear from different members of the group who may express their personal views. A letter was also received from Sal Leone, Executive Director of the Cascade Booster's Club, which is the organization that has created the for-profit organization, and submitted the application. He's requesting that the Commission approve Alternative #2. Because there is an application pending and clarification is needed, staff recommends filing the rule for further discussion. The Commission, however, has the option to

file whichever alternative they choose and they do not need to file all three.

Commissioner Ludwig noted that if they chose to file just one of those three options, it would still be on the agenda for the next three months for discussion and possible amendment; therefore, selecting one option now isn't etched in concrete. Ms. Patjens affirmed.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to file the rule with Alternative #1.

Chair McLaughlin reported that he had spoken with Commissioner Forrest, who expressed his desire to vote to file. He also said that if a decision were made not to file, he would support the decision. **Commissioner Ludwig** commented that at the last hearing, Commissioner Orr expressed a concern that this rule, as originally proposed or an alternative could be an expansion of gambling. There was discussion about that and whether that was accurate or whether in fact it is not really an expansion. Commissioner Ludwig agreed with Commissioner Orr that the perception that it's an expansion of gambling is there -- and generally speaking, the Commissioners have been very careful because any expansion of gambling should come from the Legislature. Commissioner Ludwig clarified that he made the motion to file the rule with Alternative #1, not allowing it at all, because he believed this rule should be filed and the people involved should have a chance to debate the issue. If this is considered an expansion of gambling, the option remains (after they vote on the rule in the form it's in at that time), that this may be and should be a matter addressed to the Legislature. The Legislature has done a lot of things that are very specific for charitables and nonprofits and sent implications prohibiting them from some forms of gambling except for their members and guests. Commissioner Ludwig emphasized that any change or clarification of that should come from the Legislature.

Chair McLaughlin noted that a policy statement was developed at the request of the Commissioners regarding nonprofit organizations involved in house-banked card rooms, and she read it into the record as follows:

"We support non profit organizations but feel the legislature did not intend for them to be involved with house-banked games open to the public. While the Legislature allows nonprofit organizations to conduct house-banked card games, these games are restricted to their members and guests. The Legislature also allows non profit organizations to use house-banked games at "fund raising events" but again, under very tight restrictions: No more than two twenty-four hour events a year; income cannot exceed \$10,000 a year; and only members that are not paid can participate in the management or operation.

House-banked card games are, by their nature, much different than fund raising activities typically undertaken by nonprofit organizations, such as Bingo, pull tabs, or raffles. While a successful house-banked card game could be profitable, such ventures take considerable capital to operate successfully and also involve considerable risk.

Ownership of a commercial gambling business by a nonprofit organization is in conflict with the legislative intent regarding gambling by nonprofit organizations. We

therefore think that any change in the law is an issue for legislative consideration, and we encourage nonprofit organizations to address this issue with the Legislature during the next session if they wish to change the law.”

Chair McLaughlin noted that RCW 9.46.120 contains a general prohibition of involvement in the management or operation of any gambling activity by a person that is involved in another gambling activity unless approved by the Commission. Chair McLaughlin called for further discussion.

Commissioner Parker responded that he supported the statement. He commented that his understanding of the reason behind the Legislature’s making a distinction between what’s allowable for a charitable organization and what’s allowable for private parties is based on the status that charitable organizations have under the law which is a protected status. Charitable organizations can take contributions and the contributor gets a tax deduction for making those contributions. Charitable organizations are protected in terms of the membership and the boards have a lesser liability. If a charitable organization can do the same thing that a private business can do – i. e. open up house-banked card games, that would appear to cross the line as to what a charitable organization is allowed as contemplated by the Legislature. Commissioner Parker believed this is also why there should be a lot of care given to what’s allowed for a charitable organization, compared to private parties, who are risking their own capital and their own liabilities when they go into this kind of business venture.

Senator Prentice responded that on the one hand she is pleased that Commissioner Parker sees some sense to what the Legislature has done in the past. Many in the Legislature would perceive this as an end run and it would be highly resented. She was afraid that there would be a back lash not only against the Commission but against all gambling. Senator Prentice stressed how difficult it has been to pass gambling legislation. She stressed the need to continue the task force on gambling by the Legislature. Two hearings have been scheduled; one in Renton and one in Spokane. Originally they were going to deal with the zoning and problem gambling, but the agenda is expanding. She recommended that some of the proponents for this rule should attend the hearings and discuss this issue with the legislators so they can each hear the underlying premises.

Mr. John Beadle, representing the Washington Charitable and Civic Gaming Association, noted the organization discussed this subject in length and they have received input from some legislators and other public officials -- their input was not to pursue this issue at this particular time because it may hurt the industry. Mr. Beadle reported their discussion resulted in an official position of the WCCGA to not file any rule and to table the issue, period. **Senator Prentice** asked Mr. Beadle if he thought it would be advisable for the Commission to include this as a discussion item at a future legislative hearing. Mr. Beadle said he did not. He acknowledged a problem in the nonprofit industry; however, they feel they have to correct it within their own industry without encroaching into the other forms of gambling. They have developed a legislative platform – it is electronic Bingo, to be played in the Bingo halls seven days a week with a five-year moratorium on new licensees. Electronic Bingo is only utilizing the modern technology and playing Bingo electronically. There will be no change in the traditional Bingo, which is conducted on three occasions per week. Senator Prentice suggested presenting their proposal at an upcoming hearing or committee meeting. Mr. Beadle affirmed.

Commissioner Ludwig asked if tabling the issue would leave the current applicant hanging in limbo and in jeopardy. **Bob Ransom**, President, Cascade Youth Music Association which is formerly the Seattle Cascade Booster Club and the Cascade Bingo, said he is the applicant. The organization filed their original application in February of 1999. As President of the Board, he is representing the board's opinion that they file this application over a year ago, and they wished to pursue this to a decision. The only investment at this time is in architectural drawings dealing with how to restructure the 20,000 square foot building. He indicated that he has discussed this issue at previous meetings and his comments are documented the minutes. The direction of his Board is to ask that the Commission proceed with this issue. His organization would like a conclusion to their original application filed in February of 1999. **Chair McLaughlin** said she believed Director Bishop would also like a decision so he would have concrete information to give to possible applicants. **Director Bishop** affirmed. Mr. Ransom reiterated his previous recommendation to support Alternative #2 without any restrictions. Chair McLaughlin called for further public testimony, there was none. The public testimony was closed.

Commissioner Parker advised he was in favor of proceeding with the motion and supported the motion in order to give staff and potential applicants direction. Chair McLaughlin said she has changed her mind and would vote to support the original version that uses Alternative #1 which would be the charitable nonprofit organizations shall not own any interest in a commercial business licensed to conduct gambling activities. She then called for a vote. Vote take; motion passed with four aye votes.

Chair McLaughlin noted this issue would appear on the agenda for the next two months.

Commissioner Orr complimented everyone for the way this group gets along and stressed it's important this remain an open process. He said the Commission is trying to do what is the best for their constituents -- which is the state of Washington.

5. Surprise Punch board/Pull-tab Prizes:

WAC 230-30-070 – *Control of prizes-restrictions-bonus prizes-displaying-procedures for awarding.*

Amy Patjens reported that pull-tab operators can give away either merchandize prizes or cash prizes and the changes to this rule deals with merchandize prizes that are called surprise merchandize games. With surprise merchandize games, the merchandize is wrapped up and the customer can't see what it is they are playing for. The games have been allowed for many years by policy, but there are no rules in place for them. Staff recently had a question from a special agent about whether these were allowed or not, and staff thought this was a good opportunity to make a formal rule so that staff, licensees and the general public would know what the rule entails. This rule sets forth the conditions for merchandize surprise games – that the actual cost paid by the licensee shall be printed on the outside wrapping of each prize. The prize has to correspond with the flare and the flare is the poster that has the prizes listed on it. The prizes have to be in plain view so the customer will know what prize they are playing for.

When calculating the prize pay-out, the operators for all merchandize games are allowed to mark up the cost by 50 percent. If the operator paid \$50 for a prize, they would actually list this as a \$75 prize pay-out. However, games are required to be manufactured so there is a 60 percent prize pay-out. The average in the state is usually about 68 percent above the 60 percent

requirement. With a merchandize game, one might have \$100 in gross receipts from a game and the operator paid \$40 for prizes -- they actually get to record that as \$60 for the prize pay-out. Some might argue this isn't fair to the player because the true prize pay-out is only \$40. Staff has heard from many operators who thought the 50 percent markup was fair because they have overhead expenses in locating, purchasing and transporting the merchandize. Sometimes the merchandize is damaged before it's actually been won, so operators felt there needed to be some type of a markup to compensate for that versus giving away cash prizes. **Ms. Patjens** said staff isn't advocating that be changed, she simply wanted to highlight this fact so everyone is clear on the markup and what that means. Staff recommends filing this for further discussion.

Commissioner Ludwig was impressed with the fact that the games have run smoothly with few if any regulatory complaints or concerns. He asked if staff really wanted this rule. Ms. Patjens said it is already being allowed, so, yes, this will codify what has already been occurring. Ms. Patjens noted that if new agents wonder if this is legal or not, then it would probably be good to have a rule so everyone knows that it is in fact legal. Commissioner Ludwig asked if there would be an impact on licensees. Ms. Patjens said there would be no impact because they're already doing it.

Commissioner Orr made motion seconded by **Commissioner Ludwig** to file said rule for further discussion -- WAC 230-30-070.

Chair McLaughlin opened the meeting for public discussion.

Dennis Zaborac, Tab Wizzard, asked if the actual cost paid by the licensee will go on the box -- or actual cost plus the 50 percent markup. Ms. Patjens said it was actual cost. Mr. Zaborac saw a couple of disadvantages -- the player will see the actual cost is \$40, but, when he signs for winning that prize he's going to see that he's signing for \$60. He believed there would be some questions in the player's mind as to why he's signing for \$60. **Commissioner Orr** responded that is profit margin and that people should generally understand the markup concept. Vote taken; motion passed with four aye votes

Chair McLaughlin affirmed the rule will be filed and will appear on the agenda for two more months.

6. Reporting Changes in Management.

WAC 230-04-330 – Change in management.

Amy Patjens reported that this rule covers when an organization needs to notify the Commission about a change in management. It would apply for both commercial operators and nonprofit organizations. The rule was first considered or brought up several months ago when the streamlining Bingo rules package was before the Commission. This rule was discussed then. The goal is to make the information that the agency asks for on annual renewal applications consistent with the rule. The charitable licensees support this and staff recommends filing for further discussion.

Commissioner Orr made a motion seconded by **Commissioner Parker** to file WAC 230-04-330 for further discussion. **Chair McLaughlin** opened the item for public testimony, there was none, and the hearing was closed. Vote taken; motion passed with four aye votes.

7. **Promotional Contests of Chance.**

WAC 230-46-010 – Purpose; WAC 230-46-020 – Definitions; WAC 230-46-025 – Telephone charges – Valuable consideration; WAC 230-46-070 Punch boards/pull-tab dispensing devices not to be used in promotional contests – Exception.

Amy Patjens reported these are small changes to implement legislation that was passed during the last legislative session. There was a law passed dealing with promotional contests of chance which simplified what a person could be required to do to enter a promotional. The items 7A, C and D are housekeeping changes. Staff will be inserting the new RCW cite in the rule in September. Item 7B is a repealer. There were several definitions that are not needed because the term is now obsolete and not used in the new law or the term is already defined in the law itself. Staff recommends filing for further discussion.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to file WAC 230-46-010, WAC 230-46-020, WAC 230-46-025 and WAC 230-46-070 for further discussion. **Chair McLaughlin** opened the meeting for public testimony, there was none, and the hearing was closed. *Vote taken; motion passed with four aye votes.*

8. **Credit Union Raffles:**

WAC 230-02-161 – Bona fide nonprofit organization defined.

Amy Patjens reported a law was passed during the last legislative session to define credit unions as bona fide nonprofit organizations for the purposes of conducting unlicensed raffles. Unlicensed raffles are raffles that don't exceed \$5,000 in gross receipts in a year, and where the tickets are sold to members only. Item 8A defines bona fide nonprofit organizations and adds credit unions to this list. Staff recommends filing for further discussion.

Commissioner Ludwig asked what kinds of members-only raffles do credit unions conduct. Ms. Patjens said she was not sure because staff was not involved with this bill when it passed, but she believed that the credit unions want to be able to have so that if someone came in and applied for a loan from the credit union, they would automatically be entered into a drawing. For whoever won, the prize would be paid towards their loan. They weren't able to do that as a promotional contest of chance under the old law because they were requiring a purchase by requiring a loan. The new law didn't help because if you're going to have a purchase, you have to have a free way for people to get into the drawing, and they probably don't want to have everyone coming into the credit union because they want people to apply for the loan. This would allow them to do that, but it's limited to \$5,000 in a year. It's also limited to unlicensed members-only raffles.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to file the proposed rule in WAC 230-02-161 concerning credit unions organized and operating under state or federal laws are bona fide nonprofit organizations for the purposes of Title 9.46.0315 and 9.46.110.

Chair McLaughlin opened the issue for public testimony.

Stacy Augustine, Vice President of the Washington Credit Union League, said her organization is responsible for this legislation. Credit unions are not-for-profit cooperatives, but because

they're chartered under their own statute instead of the Washington Non Profit Statute, they don't fall under any definitions of nonprofits for purposes of the Gambling Act or many other laws in Washington. They have a strong commitment to their communities. Most have been around for over 60 years and they have several pet charities that they take care of. One of those is Credit Unions for Kids. They are a major contributor to the Children's Miracle Network and try to fund hospitals and kids care centers in their areas. Because they are cooperatives they have some discomfort in giving direct contributions from the credit union, because that's their members' money and they usually aren't comfortable with giving away someone else's money that's been invested in the credit union. One way they can do that is by having bake sales and small unlicensed raffles. That was really the purpose for running the bill. Their hands were tied for a long time because they weren't defined as a nonprofit. They really wanted to give back to their communities in a couple of different ways. The statute is very limited -- just to small unlicensed raffle. There's also limiting language that says the proceeds of the raffle has to go back to one of the purposes listed under the Act. The proceeds of the raffle can't go back to the credit union; they have to go to a charity or schools, or things like that.

There was no further testimony and the hearing was closed. **Commissioner Ludwig** asked if the credit unions are authorized to do this by statute, and if they are unlicensed, why does the Commission need to get involved and rule/regulate this area. **Director Bishop** explained that there is a definition for a bona fide nonprofit organization -- it was actually placed in the WAC rule for purposes of the certification program for nonprofits and every other organization that is defined as a bona fide nonprofit charitable organization. This will make the Commission's rules consistent with the law. Commissioner Ludwig asked if it imposed any regulatory burdens on the agency at all. Director Bishop responded in the negative. **Chair McLaughlin** asked if the credit unions would have to pay a license fee of any type. Director Bishop said no, they are only authorized to do the unlicensed activities. Chair McLaughlin called for any further discussion, there was none and she called for a vote. Vote take; motion passed with four aye votes.

9. Other Business/General Discussion/ Comments from the Public

Chair McLaughlin called for any other comments or business item from the public.

Ric Newgard, representing the WCCGA, addressed Laura Rau's leaving, and emphasized that she has done a great job. He also extended the organization's appreciation to Sherri Winslow. Mr. Newgard reported that he has worked for the Seattle Junior Hockey Association for 22 years. He's seen a lot of staff members come and go, and Sherri has been one of the greatest -- they have appreciated everything she has done. The organization understands Sherri is going to take on special projects -- so they would like to officially petition the Commission to become a special project. "From everyone in the charities, Sherri, we really appreciate what you've done and thank you very much, and good luck to you."

10. Adjournment:

With no further business, a motion for adjournment prevailed at 11:35 a.m.

Minutes submitted to the Commission for approval.

Shirley A. Corbett
Executive Assistant